693 B. Private Prosecution. A private person
694 may introduce criminal prosecution. The responsibility for the instigation of prosecution rests upon the aggrieved individual; he is granted the opportunity to avail himself of possible redress in cases where the procurator has not brought charges. Private prosecution may not begin if the procurator has already completed a preliminary investigation in the same case. However, if the procurator knows, prior to the completion of his preliminary investigation, that private prosecution has been instituted, he shall immediately cease investigations and send the case to the court, since two complaints cannot be filed in a single case.

693 The court shall, upon receipt of a private
695 petition for prosecution, immediately send a copy of the complaint to the accused and notify the procurator of the date set for hearing of the private prosecution; whereupon the procurator may appear in court and express his opinion. The judge will then conduct the trial in accordance with the provisions of the Procedural Code.[4]

C. Advocate and Public Defender. Upon the institution of charges against an individual, the accused may employ one to three advocates. If no counsel has been employed, the presiding judge shall assign a public defender for the accused in cases where the minimum punishment

4. Articles 320, 340, Code of Criminal Procedure, 1935.

693 is not less than one year of imprisonment or
695 in cases where a higher court takes jurisdiction as a court of first trial. The public defender system had been in use for some years on the Mainland; and was introduced in Formosa on June 1, 1950.

695 D. Trial and Appeal. Most criminal cases may
692 go through as many as three courts -- the district court, the high court, and the supreme court. The district court handles the first trial of all criminal cases except those for which special provisions have been made by law. The organic law governing courts provides that the high court be given jurisdiction over the first trial for offenses against the internal and external security of the state and offenses against the property or persons of a friendly foreign state.[5]

695 In cases involving the trivial offenses enumerated in Article 61 of the Criminal Code, the court of first trial may, upon application by the procurator, order the sentencing of the offender without observing the usual trial procedure, if the accused has confessed during the preliminary investigation or other evidence sufficient for conviction has been offered the court. Such a sentence is limited to a fine, detention, or not more than six months' imprisonment.[6]

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5. Article 10, Organic Laws Governing Court, 1932, and Article 4, Code of Criminal Procedure, 1935.

6. Article 442, Code of Criminal Procedure, 1935.

695 A party not satisfied with the judgment of the lower court may appeal to a higher court. The procurator, advocate, statutory agent, or spouse of the accused may also appeal on behalf of the accused. And a party not satisfied with the verdict rendered by a high court sitting as court of first or second trial may direct his appeal to the supreme court. But no appeal may be taken from the court of second trial to the supreme court for a third trial in cases involving the trivial offenses specified in Article 61 of the Criminal Code.

E. Retrial and Extraordinary Appeals. When the period for filing an appeal has elapsed, or the judgment has been rendered by the supreme court or high court at the final trial, the judgment is final. There is no other remedy for the person convicted except application for retrial or an extraordinary appeal filed in the supreme court by the procurator general, in accordance with the provisions of the Code of Criminal Procedure.

After a judgment is final, an application for a retrial may be made in the interest of the person sentenced only if the original judgment was based on evidence which can be proved to have been forced or altered or where incontrovertible evidence is discovered to prove that the sentenced person is innocent.

671 695 Article 434 of the Code of Criminal Procedure provides that if it is discovered after the judgment becomes final that the con-

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695 duct of the trial was contrary to law, the procurator of the supreme court may file an extraordinary appeal in the supreme court.

674 It should be noted that the number of criminal cases is on the increase. The number reported in 1952-53 far exceeded the number reported under Japanese rule. One writer attributed the increase in the number of criminal cases on Formosa to the mitigation of punishments under the Chinese law and the relaxation of police control.[7] Of course the enormous growth of population is an important contributory cause of the increase in the number of violations. It is generally conceded that the Chinese Criminal Code is impartially administered and leniently interpreted.

697 There are eleven penitentiaries and twelve detention houses in Formosa. Juveniles are confined in the penitentiary at Hsinchu. There have been attempts to improve the facilities and the administration of the prisons in recent years. Wardens appointed to the prison must have had a high school education. The inmates are required to attend citizenship classes for two hours a day. In the workshops they are taught a variety of trades which will fit them for work outside the prison. Twenty-five per cent of the proceeds derived from their work is paid to the prisoners in exchange for their labor. The prisoners have opportunity for daily exercise and undergo physical examinations at regular intervals. Each prison has

7. Lih-wu Han, Taiwan Today, Taipei, 1952, p. 47.